

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLORADO**

JUDGE WALKER D. MILLER

COURTROOM MINUTES

Courtroom Deputy: Bernique Abiakam
Court Reporter: Paul Zuckerman

Date: December 23, 2009

Civil Case No.: 09-cv-02779-WDM-KMT

Parties

Counsel

**FETTER LOGIC, INC., a Colorado
corporation,**

Eric Liebman

Plaintiff,

vs.

**ENVESTNET ASSET MANAGEMENT, INC.,
a Delaware corporation,**

Tom Johnson
Gary Elden
Gary Miller
Ian Wilber

Defendant.

HEARING ON MOTION FOR TEMPORARY RESTRAINING ORDER

9:06 a.m. COURT IN SESSION

APPEARANCES OF COUNSEL.

Preliminary remarks by the Court regarding pending motions.

Discussion regarding proposed time usage schedule.

Argument heard regarding:

Defendant's Motion and Memorandum of Law in Support of Its Motion To Transfer This action To tHe United States District Court For tHe Northern District Of Illinois Pursuant To 28 U.S.C. § 1404, or, In The alternative, Dismiss This Action So It Can Be Re-filed In That District As A Compulsory Counterclaim (Filed 1/14/09; Doc. No. 11); and

Plaintiff's Motion Preliminarily Enjoin Envestnet Asset Management, Inc. From Further Proceeding In Illinois Federal Court (Filed 12/8/09; Doc. No. 8).

9:11 a.m. Argument by Mr. Elden.

9:30 a.m. Argument by Mr. Liebman.

Motion to Dismiss tendered to the Court.

10:02 a.m. Further argument by Mr. Liebman. Questions by the Court.

10:08 a.m. Further argument by Mr. Elden.

Comments by the Court.

10:21 a.m. Court in recess.

10:52 a.m. Court in session.

Evidentiary argument heard on Plaintiff's Motion For Temporary Restraining Order And Preliminary Injunction And Request For Forthwith Hearing (Filed 12/7/09; Doc. No. 5).

10:54 a.m. Opening statement by Mr. Liebman.

11:15 a.m. Plaintiff's witness, David Fetter, called and sworn.
Direct examination begins by Mr. Liebman.

Plaintiff's Exhibit 17 offered and admitted.

11:34 a.m. Continued direct examination by Mr. Liebman.

Plaintiff's Exhibit 3 offered.

Objection stated by Mr. Miller.

11:38 a.m. Continued direct examination by Mr. Liebman.

Plaintiff's Exhibit 3 is admitted with specified limitations.

11:39 a.m. Continued direct examination by Mr. Liebman.

Plaintiff's Exhibit 11 offered and admitted.

11:43 a.m. Continued direct examination by Mr. Liebman.

11:48 a.m. Objection by Mr. Miller regarding testimony. Response by Mr. Liebman.

Continued direct examination by Mr. Liebman.

Plaintiff's Exhibit 12 offered and admitted.

11:49 a.m. Continued direct examination by Mr. Liebman.

11:50 a.m. Objection by Mr. Miller regarding testimony. Response by Mr. Liebman.
Questions by the Court. Objection overruled.

11:51 a.m. Continued direct examination by Mr. Liebman.

11:55 a.m. Objection by Mr. Miller regarding testimony. Response by Mr. Liebman.
Comments by the Court. Overruled.

11:57 a.m. Continued direct examination by Mr. Liebman.

11:59 a.m. Discussion regarding remaining time and evidence schedule.

12:04 p.m. Court in recess.

1:09 p.m. Court in session.

Further discussion regarding time usage issues.

1:12 p.m. David Fetter, recalled to the stand for continued direct examination by Mr. Liebman.

Plaintiff's Exhibit 30 offered and admitted.

1:13 p.m. Continued direct examination by Mr. Liebman.

Plaintiff's Exhibit 16 offered and admitted.

1:15 p.m. Continued direct examination by Mr. Liebman.

Witness excused.

1:23 p.m. Defendant's witness, Mike Apker, called and sworn.
Direct examination begins by Mr. Miller.

1:58 p.m. Objections by Mr. Liebman. Sustained.

1:59 p.m. Defendant's exhibits 1-34 offered (attached to declaration).

Objection.

Defendant's exhibits 36, 38, 39, 42, 43, 44, 45, 46, and 47 offered and admitted.

Defendant's exhibits 1-34 offered and admitted.

Defendant's exhibit 35 offered and admitted.

2:10 p.m. Cross examination begins by Mr. Liebman.

ORDERED: Defendant's request that Mr. Liebman not interrupt the witness during testimony is GRANTED.

2:17 p.m. Continued cross examination by Mr. Liebman.

Witness excused.

2:22 p.m. Witness, Mr. David Fetter, recalled for cross examination by Mr. Elden.

Witness excused.

2:31 p.m. Closing argument by Mr. Elden.

2:45 p.m. Closing argument by Mr. Liebman. Questions by the Court.

2:55 p.m. Comments and rulings by the Court.

2:56 p.m. Court in recess.

3:10 p.m. Court in session.

Comments and rulings by the Court.

ORDERED: Plaintiff's Motion For Temporary Restraining Order And Preliminary Injunction And Request For Forthwith Hearing (Filed 12/7/09; Doc. No. 5) is DENIED as specified.

ORDERED: Defendant's Motion and Memorandum of Law in Support of Its Motion To Transfer This action To tHe United States District Court For The Northern District Of Illinois Pursuant To 28 U.S.C. § 1404, or, In The alternative, Dismiss This Action So It Can Be Re-filed In That District As A Compulsory Counterclaim (Filed 1/14/09; Doc. No. 11); and Plaintiff's Motion Preliminarily Enjoin Envestnet Asset Management, Inc. From Further Proceeding In Illinois Federal Court (Filed 12/8/09; Doc. No. 8) are taken UNDER ADVISEMENT.

3:24 p.m. COURT IN RECESS

Hearing concluded.

Total time in court: 4 hours, 28 minutes.